GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

TWD – Appeal Petition filed by Smt. Chapa @ Arja Pooja, W/o Syam Prasad, R/o Machilipatnam, Krishna District under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the proceedings No. REV-CSEC0VC(MIS)/215/2016-DT(SUPDT-SWLA)-KCO, dated 12.05.2017 of the District Collector, Krishna cancelling her ST Konda Kapu caste certificate – Appeal Petition dismissed - Orders - Issued.

TRIBAL WELFARE (CV) DEPARTMENT

G.O.Ms.No.78, Dated.22.11.2023

Read the following:-

1. Proceedings of the District Collector, Krishna, Lr.No.REV-CSEC0VC(MIS)/215/ 2016-DT(SUPDT-SWLA)-KCO, dated 12.05.2017.
2. Appeal Petition filed by Chapa @ Arja Pooja, W/o Syam Prasad, though his Counsel before the Government on 27.07.2017.
3. Govt. Memo No.696421/CV.2/2017, dated 18.08.2017.
4. From the District Collector, Krishna, Lr.No.REV-CSECOVC(MIS)/215/2016-DT(SUPDT)-SWLA)-KCO, dated 13.09.2017.
5. Govt. Memo No.5345/CV.2/2017, dated 13.10.2017 & 15.11.2017.
6. Govt. Memo No.696421/CV.2/2017, dated 26.09.2017, 08.11.2017, 28.11.2017, 31.01.2018, 20.03.2018, 30.04.2018, 05.06.2018, 04.07.2018, 07.08.2018, 17.09.2018, 22.10.2018, 06.11.2018, 27.12.2018, 09.01.2019, 23.01.2019, 09.09.2021, 09.11.2021, 02.03.2022 & 24.02.2023.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, Krishna had issued orders cancelling the "ST Konda Kapu" community certificate of Smt. Chapa @ Arja Pooja, W/o Syam Prasad, obtained from the then Tahsildar, Nagayalanka, dt.15.04.2011.

2. In the reference 2nd read above, Smt. Chapa @ Arja Pooja, W/o Syam Prasad has filed Appeal Petition before the Government against the Proceedings of the District Collector, Krishna. After examining the said Appeal Petition, Government have admitted the same and Para-wise remarks on the grounds filed by the Appellant along with connected records were called for from the District Collector, Krishna vide Govt. Memo 3rd read above.

3. In the letter 4th read above, the Collector & District Magistrate, Krishna has furnished the para-wise remarks on the Appeal Petition filed by Smt. Chapa @ Arja Pooja, W/o. Syam Prasad.

4. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on several dates and finally on 07.03.2023 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 6th read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant/ Para-wise remarks submitted by the District Collector, Krishna and proceedings of the District Collector, Krishna, dated 12.05.2017, the Appellate authority has observed that;

I. This Appeal Petition has been filed by Smt. Chapa @ Arja Pooja. W/o Syam Prasad, R/o. Machilipatnam, under Section 7 (2) of the AP SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997(Act 16 of 1993) being aggrieved by the impugned Proceedings Vide Ref.No.REV-CECOVC(MIS)/215/2016-DT(SUPDT-SWLA)-KCO, dated 2.05.2017 of the Collector and District Magistrate, Krishna District, cancelling the "Kondakapu" Scheduled Tribe certificate dated.15.04.2011 issued by the then Tahsildar, Nagayalanka vide C.No.6/2011 in favour of Smt. Chapa Pooja.

II. During the enquiry, Ms. Angadi Anusha filed a petition seeking impleadment in the case. Heard parties and Petition is allowed. The District Collector submitted Para-wise Remarks in the case. The matter came for hearing finally before the Appellate Authority on 07-03-2023. At the request of the Appellant, the time was extended to file written arguments on or before 17-03-2023 if any. On 14th March, the appellant sent an application to the Government seeking copy of the para-wise remarks of the District Collector, Krishna District filed. The copy of the para-wise remarks as requested was sent to him on 15th March, 2023 by the Government. After perusal of the material documents/records available on the records, the following order is made.

[Contd..on P.2]

III. The main grounds of the Appellant are that the impugned order is not according to the law and too against the procedure contemplated under the Act 16 of 1993 and Rules 1997, and that the MRO issued Caste Certificate as Konda Kapu to her father on 02.06.1990 and her father was given a study certificate on 01-06-1990 and Transfer Certificate (TC) on 05-07-1990 by the Head Master, Z.P.P.High School, Kanchikacherla where in it is shown as "Konda Kapu" and they are ordinarily residents of Kanchikacherla village of Krishna District of State of Andhra Pradesh and she and younger sister also studied in the schools on the basis of caste certificate obtained by her father as Konda Kapu ST and she was selected in the Teachers Eligibility Test cum Teachers Recruitment Test (TET cum TRT), 2014 and got job in 2016 and she married Sri Syam Prasad in 2016 who belongs to Kapu (OC) community and that one Ms.Angadi Anusha, D/o. Raja Rao, a resident of Ganugapadu village of Tiruvuru Mandal made a complaint to the Collector stating that the appellant got posting order by producing ST certificate but she belongs to Kapu.

IV. Further contention of the appellant is that an enquiry was initiated by the collector/respondent and referred to the District Level Scrutiny Committee (DLSC) for a detailed enquiry and that the DLSC and other officers conducted enquiry behind her back and the DLSC refused to consider the evidences offered in relation to the disputes among their family members in relation to a house property. The appellant further disputed the enquiry report of Tahsildar, Kanchikicherla dt:21.12.2016 where in it is reported that persons having surname “Chapa” belong to Kapu (OC) including her blood relatives and that the G.O.Ms.No.72, Social Welfare (CV-2) Department, dated 24.7.2002 amending Rule 9 of the Rules does not confer power on the Collector as such he has no jurisdiction and also disputed the caste certificates issued to their family members as OC-Kapu and their statements were given with an intention to harass and further that and absence of social affinity is not a ground to determine the caste status of an individual and that information sought under Right to Information Act was not furnished as well as a report of the DLSC which is against the principles of natural justice, and the burden under Section 6 of the Act, was discharged by the Appellant at the time of applying for the Caste Certificate in 2011, and that no notice and no opportunity was issued and requested to set aside the impugned proceedings while enclosing certain documents including 1) Notice in Form VI issued by DLSC, 2) Representation submitted by Petitioner along with certificates, 3) Impugned orders of the Respondent, 4) Letter under RTI Act, 5) Orders of Hon'ble High court of A.P. in W.P.No.21458/2017, 6) Gift deed, 7) Loan offer Letter, 8) Loan Discharge Letter, 9) Revocation Deed, 10) Registered notice, 11) Reply from Sub-Registrar, Kanchikacherla, 12) Orders of this Hon'ble court in WPMP.No.2017/201, 13) Orders of this Hon’ble court in WPMP.No.25187/2015, 14) Judgment in Crl. Appl. No.179/2016 on the file of the XVI Additional District and sessions Judge, Nandigama. 15) Certificate issued by Head Master, ZPP High school, Kanchikacherla, 16) Caste certificate issued by MRO, Kanchikacherla to father of Petitioner, 17) Transfer Certificate issued to father of the Petitioner.

V. The Collector/ Respondent furnished para-wise remarks contending that the Appellant was appointed as SGT (Telugu) 2014 under ST (Woman) category and one, Kum. Angidi Anusha. D/o Raja Rao/ impleaded party here in who was also an aspirant for the post of the SGT (Telugu), filed a petition in "Mekosam" alleging that the Appellant fraudulently obtained ST Kondakapu Certificate but in fact she belongs to Kapu by caste, and the same was referred to the District Educational Officer for necessary enquiry who in turn had addressed the Tahsildar, Nagayalanaka to conduct enquiry on the genuineness of the Caste Certificate, who did not confirm the genuineness of the caste status and there upon the District Educational officer, Krishna requested the collector to enquiry in to the caste claim of the appellant, meanwhile, the Director of Tribal welfare, A.P also requested the collector to cause a detailed enquiry and the collector referred the matter to the District Level scrutiny committee(DLSC) to decide the caste claim of the Appellant and after due enquiry the DLSC reported that the Appellant does not belong to ST Kondakapu by caste and respondent cancelled the caste certificate issued by Tahsildar, Nagayalanka vide C.No.11/2011, Dated:15.04.2011.

VI. Further contention of the respondent is that the relatives viz. her Paternal grandfather (Father of the appellants father) Sri Chapa Lakshmaiah who was issued EBC (Kapu) caste certificate vide certificate No.00DD79892703, dated:31.01.2014 and Paternal uncle, Sri Chapa Satyanarayana was also issued Kapu caste certificates (EBC) vide No.00EE53395199, dated:26.05.2014 by the then Tahsildar, Kanchikacherla and that the statements of the grandmother and her paternal uncle confirms that their family with surname "Chapa" are only Kapu but not Kondakapu - ST and to make entries in the school admission registers, generally no corroborative evidence is required.

[Contd..on P.3]

VII. Grandfather and the father of appellant hail from the Kanchikacherla village mandal and caste certificate was issued in favour of the appellant grandfather, one Sri. Chapa Lakshmaiah, S/o. Kotaiah. Sri chapa Nagaraju, S/o. Lakshmaiah also obtained caste certificate. After due enquiry the Tahsildar reported that the persons with surname "Chapa" are only "Kapu" by the caste and that the blood relation i.e. the paternal uncle of the Appellant by name Chapa Satyanarayana who was elected as ward member and acted as Vice President of Kanchikacherla Grama Panchayat deposed that his father Sri Chapa Lakshmaiah, S/o. Kotaiah was "Kapu" by caste and the EBC - caste certificate bearing No.00DD79892703, Dt.31.01.2014 was also issued to his father and EBC - certificate bearing No.00EE53395199, Dt.26.05.2014.

VIII. Further contention of the respondent/Collector is that the deposition of the paternal uncle- Chapa Satyanarayana clearly proves that the appellant who is his niece belongs to Kapu caste, and the respondent denied that the authorities failed to consider the material on record and in spite of ample opportunity to appellant, she had failed to adduce requisite evidence to establish her claim as ST and the appellant has no social affinity with the Konda Kapu - STs and the DLSC did not consider the personal disputes over the properties which are irrelevant during the enquiry and that information was not furnished under RTI to the Appellant because as per section 8(1)(h) of the RTI Act, 2005 as the enquiry under District Level Scrutiny Committee was still going on by the time, but later the information sought was supplied and the finding was given by the District Level Scrutiny Committee(DLSC) after an elaborate enquiry in to the caste claim of the appellant and giving an ample opportunity to her and after verification of the report of the DLSC, he cancelled the caste certificate issued to the Appellant, duly following the procedure as contemplated in the G.O.Ms.58, Dated 12.09.1997.

IX. The background of case and rival submissions give rise to following points for consideration.

I. Whether the Collector has jurisdiction to initiate an enquiry in to the fraudulent claims of community status as ST by individuals under the Act 16 of 1993 and Rules made there under in 1997.

II. Whether the community certificate issued to the Appellant by the Tahsildar, Nagaya lanka is valid and proper and whether there is any evidence, substantiating the claim of the appellant as notified ST- Kondakapu?

Issue No 1:

- In the instant case, the respondent/Collector referred the case of the appellant herein to the DLSC for an enquiry in the light of requests made by the DEO, Krishna District, and the Director of Tribal Welfare.

- The Government of Andhra Pradesh enacted the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of issue of Community certificates Act, 1993 to consolidate the issue of Community Certificates relating to persons belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes and for matters connected therewith or incidental thereto.

- The Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of community, Nativity and Date of Birth certificates Rules 1997 were further issued vide G.O.Ms.No.58, Social Welfare (J), dated 12-5-1997 in exercise of the powers conferred by sub-section (1) of section 20 of the aforesaid Act. Rule 3 of the Rules dealing with Community, Nativity and Date of Birth certificates. Under these Rules.

- As per rule 9(9) of A.P. SC, ST, & BC issue of community and Nativity and Date of Birth Certificate Rules, 1997, the Collector or Government either suo-moto, or on a written complaint by any person or on request by an employer/ educational institution appointing authority shall enquire into the correctness of any community, Nativity, Date of Birth certificate already issued and if it is found that the certificates is obtained fraudulently then the District collector of the Government as the case may be shall cancel the certificate as per section (5) of the Act.

- The District Collector is empowered under section 5(1), either on suo-motu or on a written complaint in person, can call for the record of any person who obtained false Community Certificate either before or after the commencement of the Act and enquire into the correctness of such certificate. If the District Collector is of the opinion that the certificate was obtained fraudulently, he shall by notification cancel the certificate after giving the person concerned an opportunity of making a representation.

[Contd..on P.4]

- Therefore the Rules conferred power on the Collector to refer the case to DLSC for an enquiry to know the correctness of the community status certificate issued by the competent authority to any individual as ST. Therefore the contention of the Appellant that the collector has no jurisdiction to initiate an enquiry under the Rules is not tenable in the eye of law.

Issue No.2:

- The Appellant is claiming that the Tahsildar, Nagayalanka was issued a certificate as ST-Kondakapu vide C.No.6/2011 dated 15.04.2011 and on the basis of it, she secured a job under ST-Woman category.

- It is seen from the records, the Appellant deposed before the DLSC that She obtained ST-Kondakapu caste certificate by producing Kondakapu caste certificate obtained by her father in the year 2011. As per the contention of the Appellant her father obtained ST-Kondakapu certificate on 02.06.1990, and one day after he obtained Study Certificate as ST-Kondakapu on 01-06-1990. At the time of admission, the school authorities enter the details in the school records on the basis of selfserved information as contended by the respondent.

- In the present case, the entry in the schools record has become a source to obtain the community status certificate as ST-Kondakapu by her father from the MRO. On the basis of the said certificate the appellant and her sister also studied as ST Kondakapu. Therefore the legal validity of such entries in the school records is questionable. As per the legal precedents, the entries in school records prior to independence carry greatest probative evidentiary value. In fact there is no such evidence produced by the Appellant in the present case.

- During the enquiry, Appellant produced the following certificates in support of her caste

1.	Certificate issued by Triveni (EM) High School, Gudivada in which she studied from Class I-VIII during 2000-2001 to 2007-2008 vide Admission No:222. (Attested Copy)
2.	Transfer certificate issued from Class IX to X during 2008-2009 to 2009-2010 vide Admission No.2296. (Photostat copy)
3.	Transfer certificate issued by S.V.L. Kranthi Junior College, Avanigadda in which she studied intermediate 1st year during 2010-2011 vide Admission No: 2619 (Photostat copy)
4.	Transfer Certificate issued by Sai Sidhardha Junior College, Avanigadda in which she studied Intermediate 2nd year during 2011-2012 vide admission No: 3393 (Photostat Copy).
5.	D.Ed., Application form, Rank card.(Photostat Copy)
6.	Statement of Marks. (Photostat Copy)
7.	TET Cum TRT 2014-Hall ticket and Rank card. (Photostat Copy)
8.	Transfer Certificate issued by vagdevi degree college for Women, Jaggayyapet in which she studied degree (B.Sc.) 1st year during 2015-2016 vide Admission No.717. (Attested copy)
9.	The S.T. Kondakapu Caste certificate issued by Tahsildar, Nagayalanka vide C.No.6/11, dated.15.04.2011.

- However the statements recorded during the enquiry and other community status certificates issued by the Tahsildar/MRO of their blood relatives are disproving the claim of the Appellant as ST-Kondakapu. The Appellant tried to show that there are disputes about the house property among the family members as such they have given evidence against their claim as ST. But this ground is not acceptable in view of the documentary evidence on record which is against the claim of the Appellant as ST-Kondakapu.

[Contd..on P.5]

- The following documents are on record during the enquiry in relation to the appellant and her father and their blood relatives.

Sl. No.	Name of the individual	Caste Claimed and certificate issued by Tahsildar	Details of Caste Certificate	Relation with Cast Claimant	Issuing Authority
1.	Chapa Pooja D/o Naga Raju	ST Konda Kapu	06/2011. Dt. 15.04.2011	Self	Tahsildar, Nagayalanka
2.	Chapa Nagaraju. S/o Lakshmaiah	ST Konda Kapu	In the year 1990	Father	Mandal. Revenue Officer, Kanchikacherla
3.	Chapa Lakshmaiah, S/o Kotaiah	Kapu (OC) EBC	00DD79892703, dt.31.01.2014	Grand Father	Tahsildar, Kanchikacherla
4.	Chapa Satyanarayana S/o. Lakshmaiah	Kapu (OC) EBC	00EE533951999, dt.26.05.2014	Paternal uncle	Tahsildar, Kanchikacherla

- The serial No.1 and 2 are related to the appellant and her father in whose favor ST-Kondakapu Certificate was issued by the Tahsildar, Nagayalanka and Kanchikacherla respectively. But the Tahsidlar, Kalnchikacherla declared the caste status of the grandfather of the Appellant and her paternal uncle who is the real brother of her father as Kapu-OC. If the father of the Chapa Nagaraju who is the grandfather of the Appellant is belonging to Kapu-OC, how the father of the Appellant and the appellant could become ST-Konda Kapu is an unanswered question by the Appellant. The caste of the person is determined on the basis of the caste of their parents, basically for the reasons that the caste is acquired by birth. The Appellant has not denied the relationship with Chapa Lakshmaiah and Chapa Satyanarayana. There is no reason to discard the grandfather's certificate which goes to the root so far as the community status of the father of the Appellant as ST, which in turn will negate the claim of the Appellant, being the daughter.

- This fact is further strengthened by the enquiry conducted by the Tahsildar, Kanchikacherla vide his file No Rc.C/1085/2O16, Dt.21.12.2016. It is seen from the reports that with persons having surname "Chapa" namely Chapa Kamalamma W/o Lakshmaiah, Chapa Anjaneyulu S/o Lakshmaiah and Sri Chapa Satyanarayana S/o Lakshmaiah, who are residents of Kanchikacherla village belong to "Kapu"(OC) by caste and Chapa Naga Raju S/o Lakshmaiah also belongs to "Kapu"(OC) and Sri. Chapa Satyanarayana S/o Lakshmaiah is the blood related (own) brother of Chapa Naga Raju. Sri Chapa Ramohana Rao S/o. Venkateswararao and Chapa Satyanarayana S/o Lakshmaiah stated that the persons with surname "chapa" belonging to "Kapu" Caste only.

- Therefore the community certificate issued in favor of the father of the Appellant as ST-Kondakapu shall not be held to be conclusive proof to determine the caste claim of the Appellant.

- Further, the Caste Claimant not only failed to produce any other corroborative evidence in support of her caste claim and but also failed to establish that she belongs to KondaKapu (S.T.) by Caste, other than that of the Caste certificate issued by the then Tahsildar, Nagayalanka. The Appellant also failed to establish customs and other cultural traits being followed by them as ST. without establishing the same, the contention cannot be accepted.

- The community certificate was issued by the Tahsildar, Nagayalanka in favor of the Appellant as ST-Kondakapu is without proper enquiry and investigation. Reiteration of the caste status as ST-Kondakapu in the records of the Appellant based on certificate issued in favor of the father of the Appellant which is questionable, would not carry any credibility or a ground to accept the caste claim of the Appellant as Scheduled Tribe. The finding recorded by the DLSC is based on consideration of the entire material.

- In the absence of valid evidence substantiating the community status as STKondakapu the claim of the Appellant cannot be considered as ST-Konda Kapu . As per Section (6) of A.P. (S.Cs, S.Ts, BCs) Regulation of Issue of Community certificates Act 1993(Act 6 of 1993), burden of proof that he belongs to such caste, tribe or class shall be on the claimant. The claimant has not discharged her legal burden in the case.

[Contd..on P.6]

- The certificate obtained as ST-Konda Kapu by the father of the appellant shall not stand itself as a proof to his claim. The appellant has to prove the contents there in are true by adducing legal evidence to that effect.

- The supreme court in Kumari Madhuri Patil & Anr. vs. Addl. commissioner, Tribal Development & ors case (AIR 1995 SC), took a note of the fact that the benefit of reservation of seats in educational institutions, and other appointments were being denied to the genuine tribals on the basis of false caste certificates. Terming such caste claims as "pseudo status", and further the Supreme court observed that spurious tribes had become a threat to the genuine tribals and it is also held that when it is found to be a case of fraud played by the concerned, no sympathy and equitable considerations can come to his rescue.

- Considering the facts involved in this case in all respects and considering the relevant law on the point, it is concluded that the Appellant does not belong to a notified ST-Konda Kapu.

- In view of the above, there is no irregularity or illegality in cancelling the community certificate issued to the Appellant herein as ST-Konda Kapu' Therefore the impugned order passed by the collector & District Magistrate, Krishna District In Ref.No. REV-CECOVC(MIS)/215/2016-DT(SUPDT-SWLA)-KCO, dated 2.05.2017 cancelling the, 'Kondakapu" Scheduled Tribe certificate dated.15.04.2011 issued by the then Tahsildar, Nagayalanka vide C.No.6/2011 in favou of Smt. Chapa Pooja /Appellant herein is hereby upheld. In the result, Appeal Petition is dismissed. As a sequel interim orders if any passed in the matter are hereby vacated. Appeal is disposed of accordingly.

5. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the appeal petition filed by Smt. Chapa @ Arja Pooja, W/o. Syam Prasad does not deserve any interference. Hence, the proceedings in the File No.REV-CSEC0VC(MIS)/215/2016-DT(SUPDT-SWLA)-KCO, dated 12.05.2017 of the Collector & District Magistrate, Krishna are hereby upheld and the appeal petition filed by Smt. Chapa @ Arja Pooja, W/o Syam Prasad is hereby dismissed. The certificate issued by the then Tahsildar, Nagayalanka, deemed to be cancelled.

6. The Collector & District Magistrate, Krishna is directed to take necessary consequential action in the matter, as per the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made therein.

7. The records (Rc.C5(M)/262/2005, containing pages 1-459) received from the Collector & District Magistrate, Krishna are returned herewith in original to the Collector & District Magistrate, Krishna and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, Krishna at Machalipatnam.(we)
(With original Records)**(BY RPAD)**

Smt. Chapa @ Arja Pooja, W/o Syam Prasad,
R/o D.No.14/217, C/o Pothna Baburao,
Beside Pentecostal Church,
Edapalli, Machilipatnam, Krishna District-521001 **(BY RP)**

Sri M. Suresh Babu, Advocate,
Bar Association, District Court Premises,
Machilipatnam, Krishna District. Ph:7032506015.

Angidi Anusha, D/o Raja Rao
R/o Tekulapalli Village, Chowtapally Gram Panchayat,
Tiruvuru Mandal, NTR District.

Copy to:
The District Educational Officer,
Chilakalapudi, Machalipatnam, Krishna Dist.-521002.

The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).

// FORWARDED:: BY ORDER //

M. Srinivasa Rao
SECTION OFFICER